

CAUSE NO. DC-22-07137

TAHA MUSHTAQ,

Plaintiff,

vs.

**JAY MALONEY and STRASBURGER
TRUCKING INC.,**

Defendants.

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IN THE DISTRICT COURT

116TH JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

RETURN OF SERVICE

Came to my hand on Thursday, July 14, 2022 at 8:42 AM,
Executed at: 109 JACKSON STREET, CATLIN, IL 61817
at 12:02 PM, on Monday, August 15, 2022, by individually and personally delivering to the
within named:

JAY MALONEY

a true copy of this

CITATION and PLAINTIFF'S ORIGINAL PETITION

having first endorsed thereon the date of the delivery.

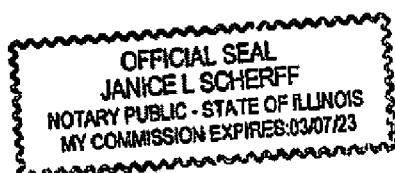
BEFORE ME, the undersigned authority, on this day personally appeared STEVEN PECHARICH who after being duly sworn on oath states: "My name is STEVEN PECHARICH. I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Illinois. I have personal knowledge of the facts and statements contained in this affidavit and aver that each is true and correct. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude."

By: 

STEVEN PECHARICH

served@specialdelivery.com

Subscribed and Sworn to by STEVEN PECHARICH, Before Me, the undersigned
authority, on this 17th day of August, 2022.




Notary Public in and for the State of Illinois

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: JAY MALONEY
109 JACKSON STREET
CATLIN, IL 61817**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the **116th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **TAHA MUSHTAQ**

Filed in said Court **28th day of June, 2022** against

JAY MALONEY & STRASBURGER TRUCKING INC.

For Suit, said suit being numbered **DC-22-07137**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 13th day of July, 2022.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By  Deputy
ANGELA CONEJO



ESERVE

CITATION

DC-22-07137

**TAHA MUSHTAQ
vs.
JAY MALONEY, et al**

**ISSUED THIS
13th day of July, 2022**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: ANGELA CONEJO, Deputy

**Attorney for Plaintiff
JAMES L BAUGUSS, III
BEN ABBOTT & ASSOCIATES PLLC
1934 PENDLETON DR.
GARLAND, TEXAS 75041
972-263-5555**

Service@benabbott.com

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

**RETURN / AFFIDAVIT
PROOF / ATTACHED**

OFFICER'S RETURN

RETURN / AFFIDAVIT
PROOF / ATTACHED

Case No.: DC-22-07137

Court No. 116th District Court

Style: TAIHA MUSHTAQ

vs.

JAY MALONEY, et al

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M. Executed at _____
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____
20____ by delivering to the within named _____

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____		
For mileage	\$ _____	of _____	County.
For Notary	\$ _____	By _____	Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20____
to certify which witness my hand and seal of office.

Notary Public

County

RETURN / AFFIDAVIT
PROOF / ATTACHED

1 CIT/ ES

DC-22-07137

1 CIT/ SOS/ ES

CAUSE NO. _____

TAHA MUSHTAQ,

Plaintiff,

IN THE DISTRICT COURT

116th

v.

_____ JUDICIAL DISTRICT

JAY MALONEY AND STRASBURGER
TRUCKING INC,

Defendants,

DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, TAHA MUSHTAQ, Plaintiff, and files Plaintiff's Original Petition, complaining of JAY MALONEY AND STRASBURGER TRUCKING INC, Defendants, and would show unto the Court as follows:

I. DISCOVERY PLAN

1. This suit is governed by discovery control plan II under Rule 190.3 of the Texas Rules of Civil Procedure.

II. PARTIES

2. Plaintiff, TAHA MUSHTAQ, is an individual who resides at 2541 Buttermilk Way, Carrollton, Denton County, Texas TX 75010.

3. Defendant, JAY MALONEY, is an individual who resides at 109 Jackson Street, Catlin, Vermilion County, IL 61817, and may be served with process at that address or wherever he may be located. Citation is being requested for this Defendant and service will be completed by a private process server.

4. Upon information and belief, Defendant, STRASBURGER TRUCKING INC, is an out of state corporation with its principal place of business at 103 East Railroad Street, Earl Park, IN 47942, who upon information and/or belief does not have a registered agent in the State of Texas and may be served with process through the Secretary of State at P.O. Box 12079, Austin, Travis County, TX 78711 at its principal place of business. Citation is being requested for this Defendant and service will be completed by a private process server.

III. JURISDICTION & VENUE

5. The Court has continuing jurisdiction over Defendants, because Defendant, Jay Maloney, committed a tort within the State of Texas, and Defendant, Strasburger Trucking Inc, maintains substantial and continuing contacts with the State of Texas. The Court has jurisdiction over the controversy because the damages are within the statutory jurisdictional limits of the Court.

6. Venue is proper in Dallas County, Texas, because all or a substantial part of the events or omissions giving rise to the claim occurred in that county.

IV. FACTS

7. This lawsuit results from an automobile collision that occurred on or about November 03, 2020, at Interstate Highway 35 in Carrollton, Dallas County, Texas. Plaintiff, Taha Mushtaq, was traveling southbound on Interstate Highway 35, with Defendant, Jay Maloney, traveling in the adjacent lane from the Plaintiff. Defendant, Jay Maloney, was acting in the course and scope of his employment with Defendant, Strasburger Trucking Inc. Defendant Strasburger Trucking Inc's employee, was attempting to change lanes and entered Plaintiff's lane of travel. Defendant, Jay Maloney, failed to be attentive, made an unsafe lane change, and entered Plaintiff's lane of travel, striking the Plaintiff's vehicle. Defendant, Jay Maloney, struck Plaintiff's vehicle with such force that Plaintiff's vehicle was spun out of control. As a result of the impact, Plaintiff suffered bodily injury and loss of earning capacity.

V. NEGLIGENCE

8. Defendant, Jay Maloney, and Defendant, Strasburger Trucking Inc, vicariously, had a duty to exercise ordinary care and operate the vehicle reasonably and prudently and failed to do so. Defendants were negligent in at least the following respects:

- a. Failure to maintain a proper lookout;
- b. Failure to make such application of the brakes as a person using ordinary care would have made;

- c. Failure to maintain proper control of the vehicle under the conditions then and there existing;
- d. Failure to turn the vehicle to the right or left to avoid the collision;
- e. Traveling at an unsafe speed; and
- f. Failure to maintain an adequate distance between the vehicle and the vehicle driven by Plaintiff, Taha Mushtaq.

VI. RESPONDEAT SUPERIOR

9. At the time of the accident, Defendant, Jay Maloney, was the agent, servant, and employee of Defendant, Strasburger Trucking Inc, and was acting within the scope of his authority as such agent, servant, and employee. Defendant, Strasburger Trucking Inc, is liable to Plaintiff for the negligence of Defendant, Jay Maloney, under the common law doctrine of *respondeat superior*.

VII. DAMAGES

10. As a proximate result of Defendants' negligence, Plaintiff suffered bodily injury and loss of earning capacity. Plaintiff suffered the following damages:

- a. Physical pain and mental anguish in the past and future;
- b. Medical expenses in the past and future;
- c. Physical impairment;
- d. Loss earning capacity.

VIII. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, TAHA MUSHTAQ, respectfully requests that Defendants, JAY MALONEY AND STRASBURGER TRUCKING INC, be cited to appear and answer, and on final trial, that Plaintiff have judgment against Defendants for:

- a. Actual damages;
- b. Prejudgment and post-judgment interest as allowed by law;
- c. Costs of suit;
- d. Monetary relief over \$250,000 but not more than \$1,000,000; and

- e. Any further relief, either in law or equity, to which Plaintiff is justly entitled.

IX. RULE 193.7 NOTICE

Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff gives notice that documents produced by any party to this case may be used at any pretrial proceeding or at the trial of this matter.

Respectfully submitted,

Ben Abbott & Associates, PLLC
1934 Pendleton Drive
Garland, TX 75041
(972) 263-5555
(817) 263-5555
(972) 682-7586 Facsimile
eService@benabbott.com

/s/ James Bauguss III

by: James Bauguss III
State Bar No. 24045463

ATTORNEYS FOR PLAINTIFF